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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

In re CECILIA C., a Person Coming Under
Juvenile Court Law.

LOS ANGELES COUNTY DEPARTMENT
OF CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

Z.C.,

Defendant and Appellant.

B223491

(Los Angeles County
Super. Ct. No. CK78871)

APPEAL from an order of the Superior Court of Los Angeles County,
Marilyn Mackel, Juvenile Court Referee. Affirmed.

Eva E. Chick, under appointment by the Court of Appeal, for Defendant and
Appellant.

Andrea Sheridan Ordin, County Counsel, James M. Owens, Assistant County
Counsel, and Denise M. Hippach, Deputy County Counsel, for Plaintiff and Respondent.

INTRODUCTION

Appellant Z.C., mother of 13-year-old Cecilia, challenges a visitation order that was entered after the juvenile court's disposition order. Mother contends the court made an impermissible visitation order, leaving visits in the sole discretion of Cecilia and her therapist. Assuming we liberally construe the notice of appeal and have jurisdiction to decide the issue, we conclude the visitation order is not illusory. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

1. *Pre-disposition Visitation Orders*

Cecilia was 12 years old in September 2009, when she was detained after complaints of physical abuse, and Mother's failure to protect Cecilia based upon Mother's chronic substance abuse. (Welf. & Inst. Code, § 300, subds. (a) & (b).)¹ At the detention hearing, the juvenile court ordered monitored visits in a neutral setting for Mother two to three times a week for a minimum of two to three hours. The juvenile court's order gave the Department of Children and Family Services (the Department) discretion to liberalize visitation.

The Department had difficulty in scheduling and monitoring Mother's visits with Cecilia. Mother acted inappropriately during visits, complaining, making derogatory remarks, and discussing court matters with Cecilia, which prompted one monitor to suspend a scheduled visit.

On October 27, 2009, the juvenile court continued the jurisdiction/disposition hearing, and reiterated its previous visitation order. Two days later, Mother called the Department and left a voicemail message with the social worker indicating "she wanted nothing to do with her daughter and wanted to give up her parental rights so she could be adopted out." Cecilia also told social workers that Mother told her she was going to put Cecilia up for adoption and sign away her parental rights because Cecilia has a relationship with her paternal grandmother. Cecilia did not want any further contact with Mother, and told the social worker: "She told me that I'm not her kid anymore and never

¹ Unless otherwise noted, all further statutory references are to the Welfare and Institutions Code.

wants to see me again if I'm going to have a relationship with my grandma. You don't say that to your kid." Cecilia submitted a letter to the juvenile court asking to be adopted by her maternal aunt.

At a hearing in December 2009, the juvenile court notified counsel and Mother that it had received Cecilia's letter and thereafter modified the visitation order. The juvenile court ordered Mother's visits to be monitored in a therapeutic setting.

At the jurisdiction/disposition hearing on January 8, 2010, Mother waived her right to a trial and submitted on the amended petition. After declaring Cecilia a dependent of the juvenile court under section 300, subdivision (a) and (b), the juvenile court removed Cecilia from Mother's custody and ordered reunification services.

The juvenile court reiterated its previous visitation order, that is, monitored visits for Mother in a therapeutic setting two to three times a week for two to three hours. In response to argument that Cecilia did not want visitation, the court stated: "If the mother is not appropriate in the therapeutic setting it may be stopped, but right now the visitation must occur and they must be appropriate." The order states: "No discretion to liberalize mother's visits without a court order. Walk matter on court's calendar when [the Clinical Social Worker] CSW is ready to liberalize, with walk on request provide reports from therapist."²

2. Post-Disposition Visitation Orders

On March 12, 2010, the juvenile court held a walk-on hearing addressing Mother's concern that the Department was not following the visitation order. The Department's written response indicated on January 19, 2010, the social worker spoke to Cecilia's therapist, advising her of the juvenile court's order and asking her to prepare Cecilia for visits beginning the first week in February 2010. Mother, however, would not agree to meet with Cecilia's therapist. Cecilia met twice with another therapist. The new therapist strongly recommended that Cecilia not be forced to have contact with Mother

² Capital letters in original are omitted.

before she was emotionally ready. On February 26, 2010, after returning to her previous therapist, Cecilia had a therapeutic session with Mother.

At the March 12 hearing, the juvenile court reiterated its visitation order: “I am directing [the] Department to set the dates for those visits to begin . . . in a therapeutic setting.” The court referenced the Department’s written response, stating: “The order is for visits to take place. I see nothing in this report that indicates that they are not going to be taking place except the child is very resistant.” The juvenile court stated it did not “think that we can have a 12-year-old drive the process.”

On March 25, 2010, the juvenile court held a walk-on hearing at the request of Mother to change the visitation order from therapeutic to a regular monitored setting. The court denied the request, stating the visits will continue to be monitored in a therapeutic setting, and directing the Department to continue to encourage Cecilia to participate in those visits and to make sure Mother is appropriate during the visits. The minute order states: “[m]onitored visits with mother in a therapeutic setting.” Under the heading “DCFS Orders,” the order states: “Minor’s individual therapist to continue to support and assist child to move forward – in an effort to have the visits between mother and minor in a therapeutic setting.” The Department also was ordered to “follow up” with Mother to ensure Mother “can be appropriate during the visits.”

3. Notice of Appeal

On March 29, 2010, Mother, appearing in propria persona, filed a notice of appeal. The notice states Mother is appealing from “[a]ny orders after 9/9/2009,” which was the date of the detention hearing.

DISCUSSION

1. Appellate Jurisdiction

Mother’s notice of appeal does not indicate she is challenging the visitation order of March 25, 2010. The Department correctly notes Mother cannot appeal from an order or finding that is not even mentioned in her notice of appeal. (Cal. Rules of Court, rule 8.100(a)(2); *In re Miracle M.* (2008) 160 Cal.App.4th 834, 846.)

Mother has a right to appeal the March 25, 2010 visitation order. (§ 395, subd. (a)(1).) We must liberally construe the notice of appeal. (Cal. Rules of Court, rule 8.100(a)(2).) Since Mother’s notice of appeal was filed four days after the March 25th hearing, and states she is appealing from “[a]ny orders after 9/9/2009,” we will liberally construe the notice as an appeal challenging the visitation order of March 25, 2010.

2. March 25, 2010, Visitation Order Was Not Illusory

Mother contends the visitation order the juvenile court made was never enforced, and the March 25, 2010, order was illusory because it gave discretion for visits to Cecilia and her therapist. The juvenile court’s visitation order was not changed at the hearing.

We review the juvenile court’s visitation order for abuse of discretion. (*In re Emmanuel R.* (2001) 94 Cal.App.4th 452, 465.)

The Legislature has mandated that visitation between child and parent “shall be as frequent as possible, consistent with the well-being of the child” and that “[n]o visitation order shall jeopardize the safety of the child.” (§ 362.1, subd. (a)(1)(A) & (B).) The juvenile court has the power and responsibility to regulate visitation between dependent children and their parents. (*In re Donovan J.* (1997) 58 Cal.App.4th 1474, 1476; *In re Jennifer G.* (1990) 221 Cal.App.3d 752, 757.) This involves the balancing of the interests of the parent in visitation with the best interests of the child. (*In re Jennifer G.*, *supra*, at p. 757.) “In balancing these interests, the court in the exercise of its judicial discretion should determine whether there should be any right to visitation and, if so, the frequency and length of visitation. The court may, of course, impose any other conditions or requirements to further define the right to visitation in light of the particular circumstances of the case before it.” (*Ibid.*)

A juvenile court may not delegate to a therapist the right to control visitation. (*In re Donovan J.*, *supra*, 58 Cal.App.4th at p. 1477.) But a juvenile court may base its determination of the appropriateness of visitation on input from therapists. (*Id.* at p. 1478; see *In re Chantal S.* (1996) 13 Cal.4th 196, 213.) *Chantal S.* held that a visitation order in which the therapist “facilitated” father’s visits, and in which the right to visit was conditional on father attending therapy and achieving satisfactory progress,

did not vest the therapist with absolute discretion to determine when visits could occur. Rather, the therapist had “no discretion whatsoever,” and the therapist was required to cooperate with the court’s order that visitation occur once certain conditions had been met. (13 Cal.4th at p. 213.)

In this case, at the March 25, 2010, hearing, the juvenile court once again ordered monitored visits for Mother in a therapeutic setting. The portion of the order addressing the therapists’ assistance is based on the interests of the child, the therapists’ reports addressing the strained relationship, and Mother’s behavior during visits. The juvenile court stated: “Regarding mother’s visits, the unfortunate reality is that we cannot pose further risk to the child by having the visits monitored outside of a therapeutic setting because of the level of professional oversight that is required to assure that this child doesn’t suffer any other abusive behavior and negative communication from the mother” When read in this context, the juvenile court did not give any discretion to the therapist or to Cecilia to determine visitation with Mother. The juvenile court exercised its discretion to fashion an appropriate order, balancing the interests under the circumstances of this case. The visitation order is not illusory.

DISPOSITION

The March 25, 2010, visitation order is affirmed.

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ALDRICH, J.

We concur:

CROSKEY, ACTING P. J.

KITCHING, J.